

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

HOWARD DELACRUZ-BANCROFT,

Plaintiff,

v.

Case No. 1:23-CV-00023-JB-KK

FIELD NATION, LLC; SPARTAN
COMPUTER SERVICES/NATIONAL
SERVICE CENTER; AND
JACK IN THE BOX INC.,

Defendants.

**DEFENDANT FIELD NATION, LLC'S REPLY IN SUPPORT OF ITS MOTION TO
COMPEL ARBITRATION AND TO DISMISS PLAINTIFF'S COMPLAINT**

COMES NOW, Defendant Field Nation, LLC, by and through its counsel of record, Littler Mendelson, P.C. (Jay J. Athey and Shawn Oller), hereby submits its Reply in Support of its Motion to Compel Arbitration and to Dismiss Plaintiff's Complaint for Breach of Contract and Failure to Perform, Breach of Good Faith and Fair Dealing, Negligent and/or Intentional Misrepresentation, and Unfair Trade Practices.

On March 24, 2023, Defendant Field Nation, LLC filed its Motion to Compel Arbitration and to Dismiss Plaintiff's Complaint ("Motion"), Document 23. Plaintiff's deadline to respond to Defendant Field Nation, LLC's Motion was due to the Court on April 7, 2023. To date, no response has been filed, nor did Plaintiff request an extension of time to respond. Plaintiff's failure to respond to Defendant Field Nation, LLC's Motion constitutes acceptance of the Motion. Rule D.N.M.LR-Civ. 7.1(b) ("failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion").

WHEREFORE, Defendant Field Nation, LLC requests the Court grant its Motion to Compel Arbitration and to Dismiss Plaintiff's Complaint, enter an Order directing Plaintiff and Field Nation, LLC to arbitrate all claims asserted against Field Nation, LLC in this litigation, enter an Order dismissing Field Nation, LLC from the instant litigation pending arbitration, and grant any further relief the Court deems necessary and proper.

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I hereby certify that, on this 27th day of April 2023, I filed the foregoing using CM/ECF, which caused service by electronic means on Plaintiff and all counsel of record as follows:

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